IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO:C.W.P.No.18463 of 2005

DATE OF DECISION: 28.03.2007

ALBERT DAVID LIMITED

.....PETITIONER
through Mr. RAMAN SHARMA,
Advocate

VERSUS

STATE OF HARYANA AND OTHERS.

.....RESPONDENTS
through Mr. B.S.RANA,
ADDL. A.G., HARYANA.

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN, CHIEF JUTICE
HON'BLE MR. JUSTICE RAJIVE BHALLA.

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment?**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest?**

VIJENDER JAIN, CHIEF JUSTICE (ORAL)

The prayer in this writ petition is for the issuance of a writ in the nature of certiorari, mandamus or any other appropriate writ, order or direction quashing the impugned order dated 14.07.2004 debarring/black listing the petitioner from doing business with the Haryana Government for a period of three years.

The dispute in the present case, falls within a narrow compass. Admittedly, vide the impugned order dated 14.07.2004, the petitioner was black listed and barred from dealing with any department of the State of

Haryana and the said order was circulated to other departments of the State of Haryana.

Counsel for the petitioner contends that the merits of the case apart, no notice was issued to or served upon the petitioner requiring him to show cause why it be not black listed / debarred from doing business with the Haryana Government. It is further contended that the notices issued to the petitioner, appended with the counter affidavit filed by the respondents, clearly state that in case the petitioner fails to remit the security of Rs.50,000/-, along with two copies of the schedule B, penal action as per terms and conditions of Schedule B would be taken against the firm. It is contended that the aforementioned notices do not spell out any proposal to debar / black list the petitioner firm. In the absence of any notice to show cause against a proposed debarring/ black listing, the impugned order being violative of principle of natural justice, be quashed.

Counsel for the State of Haryana on the other hand contends that Clause 17 (ii) of Schedule B, appended to the tender form empowers the Government to black list a contractor for violation of the terms and conditions of the contract. The petitioner was served with notices Annexure R-5 and R-6, informing him that in case he did not furnish the requisite bank guarantee, action would be taken in accordance with the provisions of Schedule B. The petitioner failed to respond to the notices and ,therefore, the respondents proceeded in terms of Clause 17(ii) and rightly black listed the petitioner.

We have heard the learned counsel for the parties at length and perused the record.

It is a settled proposition of law that black listing of an individual/firm or a company entails serious civil consequences. It is also settled that administrative actions, that visit a person with adverse civil consequences must be preceded, by a notice to show cause. In the

present case, though notices R-5 and R-6 were served upon the petitioner, these notices, do not spell out any proposal to debar/black list the petitioner. Mere reference to the rights of the Government, under Schedule B, in our considered opinion would be insufficient to clothe the aforementioned notices with the character of notices, requiring the petitioner to show cause against a proposed action of black listing/debarring. Consequently, and without going into the merits of the respective contentions, the present writ petition is allowed, the impugned order dated 14.07.2004 is quashed being violative of principle of natural justice.

We, however, leave it open to the respondents, if deemed appropriate, to proceed afresh in accordance with law.

(VIJENDER JAIN)
CHIEF JUSTICE

March 28, 2007 **(RAJIVE BHALLA)**
nt **JUDGE**